

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

WP NO.16391 OF 2021

1 G.Meenakshi
2 V. Gunasekaran .. Petitioners

Vs

M/s.Indian Bank
Madukkur Branch
No.214, Main Road
Madukkur - 614 903
Thanjavur District. .. Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records relating to order passed in A.I.R.No.33/2020 dated 28.06.2021 by the Debt Recovery Appellate Tribunal, Chennai and quash the same and consequently permit the petitioners to deposit the conditional order amount of Rs.3,00,000/- with the Registrar of Debts Recovery Tribunal, Chennai.

For the Petitioners : Mr.N.Poovanalingam

For the Respondent : Mr.P.V.Muralidharan

ORDER

(Order of the Court was made by Hon'ble Chief Justice)

The petition is directed against an order dated June 28, 2021 passed by the Debt Recovery Appellate Tribunal at Chennai.

2. By the relevant order, the tribunal recorded that on March 22, 2021, the petitioners herein had been required to make a pre-deposit of Rs.6 lakh with the Registrar of the tribunal in two installments, the first of which had to be within a period

of four weeks from the date of the order and the second within four weeks thereafter, but the first tranche of the pre-deposit was made with a day's delay and the second tranche of the pre-deposit was not made. The appellate tribunal justifiably dismissed the appeal since Section 21 of the Recovery of Debts and Bankruptcy Act, 1993 mandates a pre-deposit which ought to be 50 per cent, but may be not less than 25 per cent, of the amount adjudged to be due from the appellant.

3. The order dated March 22, 2021 recorded the bank's submission that the amount due was in excess of Rs.15 lakh. In such circumstances, the pre-deposit of Rs.6 lakh was eminently justified and the petitioners ought to have made such deposit to pursue the matter.

4. However, since the petitioners say that they are now ready to make the pre-deposit, it will be open to the petitioners to apply before the tribunal for depositing the sum of Rs.4 lakh, in addition to the sum of Rs.3 lakh already deposited, as a pre-condition to the tribunal receiving the petitioners' appeal and hearing the same on merits. Such deposit has to be made within next three weeks for this order to be effective.

5. W.P.Nos.16391 of 2021 is disposed of as above. W.M.P.No.17361 of 2021 is closed.

There will be no order as to costs.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

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Sub Assistant Registrar

To

1. M/s.Indian Bank
Madukkur Branch
No.214, Main Road
Madukkur - 614 903,Thanjavur District.
 2. The Debt Recovery Appellate Tribunal, Chennai
- +2ccs to Mr.N.Poovanalingam, Advocate in SR.NO.52138

WP No.16391 of 2021

SRA(CO)
PM/11/10/2021